

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

FRED L. PLUMP,

Plaintiff,

v.

HONORABLE BOB RILEY, as Governor of
the State of Alabama,

Defendant.

CIVIL ACTION NO.
2:07-cv-01014-MEF-CSC

Motion For Preliminary Injunction

Plaintiff Fred Plump, through undersigned counsel, moves the Court to enter a preliminary injunction vacating defendant Riley's appointment of George F. Bowman to the District 1 seat on the Jefferson County Commission and enjoining defendant Riley from interfering with the special election for District 1 scheduled for February 5, 2008. As grounds for his motion, plaintiff would show as follows:

1. There is a substantial likelihood plaintiff will prevail on the merits of his complaint. The law of this Court, established in *Yvonne Kennedy v. Bob Riley*, No. 2:05-cv-01 100-MHT-DRB (M.D. Ala.), on August 18, 2006 (Doc. 23), clearly bars Governor Riley from relying on the holding of *Riley v. Kennedy*, 928 So.2d 1013 (Ala. 2005), to exercise any power to make an appointment to fill the vacancy on the Jefferson County Commission unless and until the Alabama Supreme Court decision receives preclearance under § 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

2. Absent the requested preliminary injunctive relief, plaintiff will suffer irreparable injury, in that he will be disfranchised from participating in an election for his county commissioner, his federally protected right to vote will be denied and abridged, and the burden of preventing defendant Riley from enforcing unprecleared Alabama law will be shifted from the State to him as an African-American citizen, in violation of § 5 of the Voting Rights Act.

3. The irreparable injury plaintiff will suffer outweighs any injury defendant Riley allegedly may incur if this motion for a preliminary injunction is granted.

4. The public interest in the enforcement of federal voting rights law, in safeguarding the democratic process and in ensuring the equal voting rights of all citizens will be served by the preliminary injunction plaintiff requests.

WHEREFORE, plaintiff prays that this Court promptly either will consolidate this action with the three-judge court action pending in *Yvonne Kennedy v. Bob Riley*, No. 2:05-cv-01 100-MHT-DRB (M.D. Ala.), or request the speedy convening of another three-judge court, and that the three-judge court promptly will enter a preliminary injunction providing the following relief:

- A. Vacating the appointment of George F. Bowman to the District
1 seat on the Jefferson County Commission, and
- B. Enjoining defendant Riley from delivering the commission or
other appointment papers to any person for the Jefferson

County Commission District 1 vacancy unless and until the defendant obtains preclearance, as required by Section 5 of the voting Rights Act, and

C. Enjoining defendant Riley from interfering in any way with the conduct of the election scheduled for February 5, 2008, to fill the vacancy in the District 1 seat on the Jefferson County Commission.

Submitted by,

James U. Blacksher
P.O. Box 636
Birmingham AL 35201
phone 205-591-7238
fax 205-591-0709
email
jblacksher@ns.sympatico.ca

/s/ Edward Still
Edward Still
Edward Still Law Firm LLC
2112 11th Avenue South
Suite 201
Birmingham AL 35205-2844
phone: 205-320-2882
fax: 877-264-5513
email: Still@votelaw.com

Attorneys for the plaintiffs

CERTIFICATE OF SERVICE

I certify that on 27 November 2007 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys:

NONE

And I certify that I served by email and/or fax the following:

Ken Wallis, Esq.
Legal Advisor
Office of the Governor
State Capitol
600 Dexter Avenue
Montgomery AL 36130
phone 334-242-7120
fax 334-242-2335

Margaret L. Fleming, Esq.
Misty Fairbanks, Esq.
Assistant Attorney General
Office of the Attorney General of
Alabama
11 South Union Street
Montgomery, AL 36130-0152
Email: mfleming@ago.state.al.us
Email: mfairbanks@ago.state.al.us

/s/ Edward Still